

REMARKS

In the outstanding Office action the drawings were objected to; the specification was objected to; Claims 1-7, 9, 12-18, 20, 23-24, and 25 were rejected as being unpatentable over Gold et al., (U.S. Patent Publication No. US 2002/0032610, herein after Gold) in view of Borgato (U.S. Patent No. 5,950,178); Claims 8, 19, and 26 were rejected as being unpatentable over Gold in view of Borgato and Gallagher ("Fancy cut grade search: a balance between art and science"); Claims 8-10, 21, and 22 are rejected as being unpatentable over Gold in view of Borgato and in further view of Phillips, et al. (U.S. Patent Publication No. US 2002/0116348, herein after Phillips).

In reply the specification has been amended to include a description of element "142". The Abstract has been amended as requested.

The following discussion now turns to the prior art based rejections.

The pricing of diamonds includes a subjective component that is difficult to quantify. It is, of course, straight forward to include some aspects of diamond pricing in determining an offer price (e.g., selling price) for a particular diamond. For example, the wholesale cost or the weight of a diamond is a factor which can be known with absolute precision and can be used as a simple basis for calculating price. Applicants submit that it is readily recognized that normally one would not price a diamond below its wholesale cost or else the reseller of the diamond would lose money on a sales transaction.

The diamond industry has created an elaborate pricing scheme for diamonds. This pricing can include (i) objective characteristics of a diamond that can be measured absolutely, such as weight, and (ii) characteristics that may have some subjective component such as clarity, and color of fluorescence. However, there are no absolute rules for assigning a certain value to a particular characteristic that has a subjective component. For example, there may exist a greater than additive effect on price for certain combinations of clarity and/or color

property depending on how the characteristic is combined with other characteristics such as diamond shape, cut or provenance.

As mentioned above, a subjective pricing component may arise when a diamond is priced. On the one hand it may appear to be straight forward to assign each particular characteristic (e.g., attribute) of a diamond with a certain value and then sum the pricing component of each characteristic to reach a total price. However, this pricing strategy may mis-price diamonds in the market by not taking into account the desirability of certain combinations of objective and subjective characteristics. For example, one can envision that a diamond having a red tinge and cut in the shape of a heart may have a substantially higher value than a red-tinged round-cut diamond or a blue tinged heart-cut diamond. The value of the red-tinged heart cut diamond may be especially high around Valentine's day.

The method described in the present specification assigns a sales price for a particular diamond based upon a known and/or inherent characteristic of a diamond. The method further assigns a subjective price component to the diamond based upon a subjective value that is associated with a particular attribute of the diamond. By utilizing both subjective and objective components of pricing it may be possible to sell diamonds at improved margins by identifying and displaying diamond prices that are advantageous to the diamond seller and more fully take into account the diamond's subjective value component.

The Office has asserted that the presently claimed invention is obvious in view of a patent to Gold (U.S. 2002/0032610) combined with one or more secondary references. Applicants traverse the rejection on the grounds that neither Gold nor the secondary references describe a process by which the subjective value of a product attribute is taken into account when pricing a good such as a diamond.

Gold describes a process for providing a response to a pricing inquiry (see title). The price of an item provided by the method of Gold is based on a set of predetermined criteria

(see Abstract). The price based on the predetermined criteria may be modified by applying various predetermined rules. Applicants submit that the use of a product attribute having a subjective value to determine a price is not disclosed in Gold.

Gold describes predetermined criteria and predetermined rules as follows:

The set of predetermined criteria may include terms of a contract, terms of a market price program, terms of a re-quote, or selections from a reference price table. The determined price is then modified based on the application of various predetermined rules. The various predetermined rules may include a set of business rules, a set of value added service rules, or a set of price channel conversion rules. (Paragraph [0010])

Once a price has been identified, either from an MPP, contract, or reference pricing table, business rules variables may be applied to the price. The price may be modified based on data filters, quantifiers, systematic exceptions to an organization's stated pricing policy or desired practice. Further, the price or modified price may be further adjusted by applying value added services (VAS) rules. These rules can accommodate the design, application and administration of price adders associated with value added services, such as special handling, packaging, programming, etc. (See paragraph [0030])

The selected criteria for the business rules may include items such as customer, customer class, geography, channel of distribution, part, part family, quantity, competitor, price targets, etc. (See paragraph [0038])

Gold nowhere discloses that a product attribute having a subjective value may be included in the price calculation. Instead, Gold takes a price from, for example, a source such as a pricing table and then modifies the price by applying a business rule that is not described as one that may include subjective attributes of the product. The business rules are instead based upon the customer, the identity of a particular part, quantity, competitor, etc. which may be elements of the business environment. These elements however completely ignore product attributes having subject value. Thus the process of Gold may be one that can be used in applications such as defining prices for generic, bulk or commodity items wherein a

subjective component is not present in the value of the price. This is not the case for diamonds. As already noted above, the pricing component for diamonds involves a substantial subjective component. Such a subjective component is the antithesis of the generic products which may be best priced by the process of Gold.


The Office also cited to a patent to Borgato (U.S. 5,950,178) as evidence that the presently claimed invention is obvious. It appears that the Office relies upon Borgato for its specific disclosure of business processes that may relate to diamonds.

Borgato suffers from the same deficiency as Gold. Borgato does not disclose a process that takes into account the subjective value of product attributes of diamonds. In fact, Borgato attempts to neatly characterize each element of the pricing of diamonds so that they may be efficiently sold in the market. In effect, Borgato describes a process that creates a clearinghouse for diamonds so that re-sellers may easily and quickly purchase diamonds without any burden of determining or taking into account the subjective pricing component associated with a luxury item like a diamond.

Applicants therefore submit that the presently claimed invention which includes taking into account product attributes having a subjective value in the pricing of a diamond is not disclosed or suggested by the prior art relied upon by the Office. Applicants therefore respectfully request the withdrawal of the rejections and the allowance of all now-pending claims.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Stefan U. Koschmieder, Ph.D.
Registration No. 50,238

NFO/SUK:sjh